

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DELAWARE RIVER AND BAY AUTHORITY,	:	
	:	C.A. No. 07-00008-SLR
	:	
Plaintiff	:	
	:	
v.	:	
	:	
JAN D. KOPACZ,	:	
	:	
Defendant.	:	

**ANSWER OF DELAWARE RIVER AND BAY AUTHORITY
TO COUNTERCLAIM OF JAN D. KOPACZ**

Plaintiff, Delaware River and Bay Authority (hereinafter "DRBA"), hereby responds to defendant Jan Kopacz' counterclaim as follows:

1. Denied as stated. It is admitted only that Kopacz was paid in accordance with DRBA's disability policy as a result of his alleged on-the-job injury of December 24, 2004. It is further admitted that DRBA has paid all reasonable and necessary medical expenses related to that incident when such invoices have been presented. It is specifically denied that any maintenance payments have been discontinued. DRBA's position regarding maintenance is set forth clearly in its Complaint seeking a Declaratory Judgment.

2. Denied. It is averred to the contrary that DRBA is only required to provide maintenance and medical treatment to Kopacz to the extent that it is not provided by others until such time as he reaches maximum medical improvement. By way of further answer, Kopacz' monthly living expenses have been provided by the long-term disability (hereinafter "LTD") carrier pursuant to a plan purchased for his benefit by the DRBA and/or by the Social Security Administration (hereinafter "SSA"). All remaining allegations are denied, and strict proof thereof is demanded at trial.

3. Denied. It is averred to the contrary that the DRBA has authorized all reasonable and necessary medical treatment, and any delay in his treatment has been either caused by the medical provider, Kopacz and/or by others over whom DRBA has no control. All remaining allegations are denied, and strict proof thereof is demanded at trial.

4. Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 and, therefore, same are denied, and strict proof is demanded at trial.

5. The allegations contained in paragraph 5 are conclusions of law to which no response is required. To the extent that a response is deemed required, it is denied that Kopacz is entitled to any relief under the Counterclaim pursuant to general maritime or other law.

AFFIRMATIVE DEFENSES

1. Kopacz' Counterclaim fails to state a claim upon which relief can be granted.

3. None of the losses sustained by Kopacz resulted from any act or failure to act on the part of the DRBA.

5. Kopacz has failed to mitigate his damages.

6. The DRBA has met all of its maintenance and cure obligations under maritime law.

7. The DRBA claims all the defenses available to them under general maritime law.

WHEREFORE, Plaintiff, Delaware River and Bay Authority, demands judgment in its favor and against Defendant, Jan D. Kopacz, on both the Complaint and Counterclaim, together with interest, costs, attorneys' fees and such other and further relief as may be appropriate under the circumstances.

February 16, 2007

ROSENTHAL, MONHAIT & GODDESS, P.A.

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CERTIFICATE OF SERVICE

I, Carmella P. Keener, hereby certify that on this 16th day of February, 2007, I electronically filed with the Clerk of the Court **Answer of Delaware River and Bay Authority to Counterclaim of Jan D. Kopacz** using CM/ECF which will send notification of such filing to the following:

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